In the Indiana Supreme Court

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Cause No	٧ ١	37	-11®	\rightarrow
R-325			11	

STATE OF INDIANA ex rel.

Christopher M. LINDERMAN and
HOOSIER TERMITE & PEST CONTROL,
INC.,
Relators,
V.

Consolidated Trial Court Nos.
THE FLOYD CIRCUIT COURT, et al.,
Respondents.

Supreme Court Cause No.
22S00-0907-OR-325

Consolidated Trial Court Nos.
22C01-0506-PL-356
22D01-0802-PL-71

ORDER

Relators, by counsel, filed a verified petition for writ of mandamus under the rules governing original actions. Relators allege that the trial court delayed in ruling following a bench trial, that they filed a praecipe for withdrawal under Indiana Trial Rule 53.2 on June 12, 2009, and that the trial court clerk has failed in her duty to withdraw the case from the trial court and transmit it to this Court for appointment of a special judge. A supplemental record and briefs in opposition to the writ have been filed.

Each Justice has had an opportunity to review the materials filed in this action. The Court has met in conference and discussed Relator's request for relief. Three Justice have voted to deny the writ and two Justices have voted to grant the writ.

Accordingly, the Court DENIES Relator's petition for writ of mandamus. Motions to reconsider or petitions for rehearing are not allowed. Ind. Original Action Rule 5(C).

The Clerk is directed to send a copy of this order to the Hon. J. Terrence Cody, Judge, Floyd Circuit Court, 311 Hauss Square, Room 417, New Albany, IN 47150; Linda S. Moeller, Clerk of the Floyd Circuit and Superior Courts, 311 Hauss Square, Room 235, New Albany, IN 47150; Stephen T. Naville and Gregory Reger, P.O. Box 1343, 506 State Street, New Albany, IN 47151; Richard T. Mullineaux and Crystal G. Rowe, 3620 Blackiston Blvd., Suite 200, New Albany, IN 47150; John A. Kraft and Justin E. Endres, 126 W. Spring Street, New Albany, IN 47150; and Rachele L. Cummins, 209 E. Chestnut Street, P.O. Box 98, Jeffersonville, IN 47131. The Clerk is also directed to post this order to the Court's website.

Done at Indianapolis, Indiana, this 213th day of August, 2009.

Randall T. Shepare Randall T. Shepard

Chief Justice of Indiana

Shepard, C.J., and Boehm and Rucker, JJ., vote to deny the writ. Dickson and Sullivan, J., vote to grant the writ.